

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WHOLE FOODS MARKET GROUP,
INC. OVECHARGING LITIGATION

Case No. 1:15-cv-5838 (PAE)

**NOTICE OF DEPOSITION PURSUANT
TO FEDERAL RULE OF CIVIL
PROCEDURE 30(b)(6) OF DEFENDANT
WHOLE FOODS MARKET GROUP,
INC.**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, Plaintiffs in the above-captioned action, by and through their undersigned counsel, will take the deposition of Defendant Whole Foods Market Group, Inc. (“Defendant” or “Whole Foods”), upon oral examination before a court reporter or other person authorized to administer an oath on January 18, 2018, at 9:00 a.m., at the offices of Finkelstein, Blankinship, Frei-Pearson, & Garber, LLP, 445 Hamilton Ave., Suite 605, White Plains, NY 10601, or at such other location as the parties mutually agree.

Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant shall designate and produce for deposition one or more of its officers, directors, or managing agents or other persons consenting to appear and testify on its behalf, concerning the subject matters listed in the attached Exhibit A. Rule 30(b)(6) states: “The persons designated must testify about information known or reasonably available to the organization.” If you intend to designate multiple persons who will testify, please “set out the matters on which each person designated will testify.” *See* Fed. R. Civ. P. 30(b)(6). The deposition will be recorded stenographically and on video.

Date: November 9, 2017

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Counsel for Plaintiffs and the Proposed Class

EXHIBIT A
DEFINITIONS AND INSTRUCTIONS

The following Definitions and Instructions apply to this Notice of Deposition Pursuant to Federal Rule of Civil Procedure 30(b)(6) of Defendant, and Plaintiffs incorporate them into each Deposition Topic listed below.

1. For purposes of interpreting or construing these Definitions and Instructions and the following Deposition Topics, the terms used are to be given their most expansive and inclusive interpretation, unless otherwise specifically limited in the Definition, Instruction, or Deposition Topic itself. Verb tenses shall be interpreted to include past, present, and future tenses; the use of the singular form of any word includes the plural and vice versa; references to a gender shall be interpreted to include the masculine, feminine, and neuter; and the word “including” should be read as “including but not limited to” and the word “includes” should be read as “includes but is not limited to.”

2. Defined terms may or may not be capitalized or made uppercase; the given definitions apply even if a term in question is not capitalized or made uppercase. No waiver of a definition is implied by the use of a defined term in a non-capitalized or lowercase form.

3. “All,” “any,” and “each” shall each be construed as encompassing any and all.

4. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

5. “Concerning” means relating to, referring to, describing, evidencing, or constituting.

6. “Defendant,” “You,” “Your,” and “Whole Foods” each mean Defendant Whole Foods Market Group, Inc., and any of its officers, directors, employees, partners, corporate parents, subsidiaries, or affiliates.

7. “Plaintiffs” means the plaintiffs in the above-captioned action.

8. “Pre-Packaged Food Products” is used in the broadest possible sense, and refers to all food products sold at any Whole Foods-branded store that are packaged and labeled by weight by Whole Foods employees before being marketed to consumers, including but not limited to all

products within the categories identified in Exhibit A to the October 19, 2015 Declaration of Jeffrey Moll (ECF No.35-2).

9. The relevant time period for these topics is from July 24, 2012 to the present, unless otherwise specified.

DEPOSITION TOPICS

Pursuant to Federal Rule of Civil Procedure 30(b)(6), Defendant shall designate and produce for deposition one or more of its officers, directors, or managing agents or other persons consenting to appear and testify on its behalf, with respect to information known and reasonably available to Defendant concerning the following subjects:

1. The identity and content of all documents or data reflecting the packaging, weighing, labeling, pricing, and sales of Whole Foods Pre-Packaged Food Products, and the person(s) responsible for maintaining such documents or data.
2. All systems or databases used by Whole Foods or its employees to record or track the packaging, weighing, labeling, pricing, and sales of Whole Foods Pre-Packaged Food Products, and the person(s) responsible for maintaining such systems or databases.
3. The identity and content of all documents or data reflecting the purchases and weights of all meat, produce, dairy products, and other food products that Whole Foods subsequently packages for sale in its Pre-Packaged Food Products, and the person(s) responsible for maintaining such documents or data.
4. All systems or databases used by Whole Foods or its employees to record or track the purchases and weight of all meat, produce, dairy products, and other food products that Whole Foods subsequently packages for sale in its Pre-Packaged Food Products, and the person(s) responsible for maintaining such systems or databases.

5. Any New York City Department of Consumer Affairs investigations, inquiries, audits, or reviews concerning the extent to which Whole Foods' Pre-Packaged Food Products are properly labeled as to weight.

6. Any other local, state, or federal agency investigations, inquiries, audits, or reviews concerning the extent to which Whole Foods' Pre-Packaged Food Products are properly labeled as to weight.

7. Any internal investigations, inquiries, audits, or reviews conducted by Whole Foods concerning the extent to which its Pre-Packaged Food Products are properly labeled as to weight, including but not limited to audits carried out under the terms of the December 23, 2015 Consent Order entered into by Whole Foods and the New York City Department of Consumer Affairs.

8. The manner or means by which Whole Foods employees are trained to weigh and label Pre-Packaged Food Products.

9. Whole Foods' internal policies, standards, or instructions concerning the weighing and labeling of Pre-Packaged Food Products.

10. The policies, procedures, or means by which Whole Foods monitors and enforces compliance with its training, policies, standards, or instructions concerning the weighing and labeling of Pre-Packaged Food Products, including store audits.

11. Whole Foods' policies and procedures with respect to complaints Whole Foods receives concerning the weight of Pre-Packaged Food Products, including but not limited to the identification of the various ways consumers can make such complaints to Whole Foods, how Whole Foods records, saves, or tracks such complaints, and Whole Foods' policies and procedures concerning its responses to such complaints.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 9, 2017, I served a copy of the foregoing Notice of Deposition of Whole Foods Market Group, Inc. via electronic mail to the following:

- David Sellinger
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/s/ D. Gregory Blankinship
D. Gregory Blankinship